

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

U.S. TECHNOLOGY CORPORATION
AND RAYMOND F. WILLIAMS

PLAINTIFFS

VS.

CIVIL ACTION NO. 5:15-cv-66(DCB)(MTP)

MISSISSIPPI DEPARTMENT OF
ENVIRONMENTAL QUALITY, ET AL.

DEFENDANTS

ORDER

This cause is before the Court on defendants Mississippi Department of Environmental Quality, Steven Bailey, in his official capacity, and Richard Harrell, in his official capacity ("the defendants")'s motion to dismiss (**docket entry 17**); and on plaintiffs U.S. Technology Corporation and Raymond F. Williams ("the plaintiffs")'s motion to amend complaint (**docket entry 23**). Having carefully considered the motions and responses, the memoranda and the applicable law, and being fully advised in the premises, the Court finds as follows:

Rule 15 of the Federal Rules of Civil Procedure provides for amendment of a complaint, once as a matter of course, within twenty-one days after serving it, or within twenty-one days after service of a responsive pleading or after service of a motion under Rule 12(b), 12(e), or 12(f), whichever is earlier. Fed.R.Civ.P. 15(a)(1)(A)-(B). The plaintiffs' motion to amend was filed exactly twenty-one days after service of the defendants' Answer and the defendants' motion to dismiss pursuant to Rules 12(b)(1) and

12(b)(6), and is thus timely.

A copy of the proposed Amended Complaint is attached to the plaintiffs' motion. Inasmuch as the Amended Complaint does not reference or incorporate the original Complaint, the former will supersede the latter; as a result, the defendants' motion to dismiss the original complaint must be denied as moot.

Accordingly,

IT IS HEREBY ORDERED that the plaintiffs' motion to amend complaint (**docket entry 23**) is GRANTED, and the plaintiffs shall file their Amended Complaint within seven days from the date of entry of this Order;

FURTHER ORDERED that the defendants' motion to dismiss (**docket entry 17**) is DENIED AS MOOT.

SO ORDERED, this the 2nd day of December, 2015.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE